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7 STRIKE 3 HOLDINGS, LLC,
8 Plaintiff,
9 v.
10 JOHN DOE SUBSCRIBER ASSIGNED IP
11 ADDRESS 98.35.26.207,
12 Defendant.

Case No. 24-cv-00992-LJC

**ORDER TO SHOW CAUSE WHY
APPLICATION TO SERVE
SUBPOENA SHOULD NOT BE
DENIED**

Re: Dkt. No. 8

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13 The Court has reviewed Plaintiff Strike 3 Holdings, LLC's Application for leave to serve a
14 subpoena seeking information intended to identify the defendant in this case, whom Strike 3
15 currently knows only by an IP address. ECF No. 8.

16 The declaration that Strike 3 offers from its general counsel Emilie Kennedy states that the
17 Maxmind database Strike 3 uses to trace IP addresses originally identified Defendant's IP address
18 as located in San Ramon, California. ECF No. 8-1 at 29, ¶¶ 4–5. Kennedy states that the IP
19 address later "continued to trace to this District," and that when Strike 3 checked again before
20 filing its Application, Maxmind identified the IP address as located in Pleasanton, California. *Id.*
21 ¶¶ 6–7. Although both San Ramon and Pleasanton fall within this district, Strike 3 has not
22 addressed potential reasons for that discrepancy in identifying a location or the potential
23 significance of the discrepancy. Strike 3 is ORDERED to file a supplemental declaration
24 addressing that issue, including (but not necessarily limited to) whether the discrepancy calls into
25 question the reliability of: (1) establishing a connection to this district, as is relevant to venue and
26 personal jurisdiction; (2) identifying a specific subscriber as having used the IP address at any
27 given time; and (3) determining whether the same subscriber was assigned the IP address
28 throughout the period of time at issue, i.e., from the first alleged download through anticipated

1 service of the subpoena. Strike 3 should also address whether the subpoena it seeks to serve will
2 request subscriber data specific to the period of the alleged downloads or if it instead only seeks
3 the current subscriber.

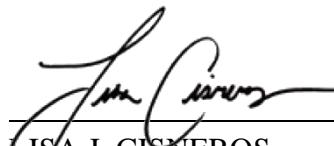
4 Strike 3's Application also fails to establish that the entity on which it seeks to serve a
5 subpoena, Comcast Cable Communications (Comcast), is the correct internet service provider
6 (ISP). None of the declarations that Strike 3 has filed in support of its application mention
7 Comcast. A screenshot from Maxmind attached to Kennedy's declaration lists "Comcast Cable"
8 as the ISP associated with Defendant's IP address, ECF No. 8-1 at 32, but Strike 3 has not
9 addressed whether Maxmind is a reliable source for that information. Strike 3 also has not
10 addressed whether its previous Maxmind queries (at least one of which identified a different
11 location) consistently identified Comcast as Defendant's ISP.

12 Strike 3 is therefore ORDERED TO SHOW CAUSE why its Application should not be
13 denied, by filing one or more supplemental declarations addressing the issues discussed above no
14 later than April 10, 2024. Strike 3 may also file a supplemental brief by the same deadline if it
15 believes that would assist the Court.

16 **IT IS SO ORDERED.**

17 Dated: March 27, 2024

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LISA J. CISNEROS
United States Magistrate Judge